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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

JOHN ROGERS,) Case No. CV 11-03596 POW
Plaintiff,) COMPLAINT FOR VIOLATION
vs.) OF FEDERAL FAIR DEBT
EXECUTIVE FINANCIAL) COLLECTION PRACTICES ACT
ENTERPRISES, INC.,) AND ROSENTHAL FAIR DEBT
Defendant.) COLLECTION PRACTICES ACT

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for
Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C.
§1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection
Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of

1 which prohibit debt collectors from engaging in abusive, deceptive, and unfair
2 practices.
3

4 **II. JURISDICTION**

5 2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).
6

7 **III. PARTIES**

8 3. Plaintiff, John Rogers ("Plaintiff"), is a natural person residing in
9 Los Angeles county in the state of California, and is a "consumer" as defined by
10 the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code
11 §1788.2(h).
12

13 4. At all relevant times herein, Defendant, Executive Financial
14 Enterprises, Inc., ("Defendant") was a company engaged, by use of the mails and
15 telephone, in the business of collecting a debt from Plaintiff which qualifies as a
16 "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by
17 Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to
18 be due another, and therefore is a "debt collector" as defined by the FDCPA, 15
19 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).
20
21

22 **IV. FACTUAL ALLEGATIONS**
23

24 5. At various and multiple times prior to the filing of the instant
25 complaint, including within the one year preceding the filing of this complaint,
26 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.
27
28

1 6. On or about October, 2010, Defendant called Plaintiff in attempt to
2 collect an alleged debt. Defendant failed to identify what the alleged debt was
3 for.

5 7. Defendant left at least one voicemail for Plaintiff on his cell phone
6 wherein it was not stated that Defendant is a debt collector or that the call was an
7 attempt to collect an alleged debt.

9 8. On November 2, 2010, Plaintiff's counsel sent a letter to Defendant
10 to request proof of the alleged debt that Defendant had called Plaintiff about.
12 After Defendant failed to respond to that letter, a second letter, dated November
13 16, 2010, was sent to Defendant. Defendant has continued to ignore both letters
14 to date.

16 9. Defendant's conduct violated the FDCPA and the RFDCPA in
17 multiple ways, including but not limited to:

20 a) Failing to notify Plaintiff during the initial
21 communication with Plaintiff that the
22 communication was an attempt to collect a debt and
23 any information obtained would be used for that
24 purpose, including, but not limited to, at least one
25 voicemail left by Defendant in October, 2010
26 (§1692e(11)); and

28 b) Failing to notify Plaintiff during each collection
29 contact that the communication was from a debt
30 collector, including, but not limited to, at least one
31 voicemail left by Defendant in October, 2010
32 (§1692e(11)).

1
2
3 10. As a result of the above violations of the FDCPA and RFDCPA
4 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal
5 humiliation, embarrassment, mental anguish and emotional distress, and
6 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
7 and costs and attorney's fees.
8
9

10 **COUNT I: VIOLATION OF FAIR DEBT**
11 **COLLECTION PRACTICES ACT**

12 11. Plaintiff reincorporates by reference all of the preceding paragraphs.
13
14

15 **PRAYER FOR RELIEF**
16
17

18 WHEREFORE, Plaintiff respectfully prays that judgment be entered
19 against the Defendant for the following:
20
21

22 A. Declaratory judgment that Defendant's conduct
23 violated the FDCPA;
24 B. Actual damages;
25 C. Statutory damages;
26 D. Costs and reasonable attorney's fees; and,
27 E. For such other and further relief as may be just and proper.
28

29 **COUNT II: VIOLATION OF ROSENTHAL**
30 **FAIR DEBT COLLECTION PRACTICES ACT**

31 12. Plaintiff reincorporates by reference all of the preceding paragraphs.
32
33

13. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 23rd day of April, 2011

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ORIGINAL

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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

JOHN ROGERS,	CASE NUMBER
	CV11-03596PJW
PLAINTIFF(S)	
v.	
EXECUTIVE FINANCIAL ENTERPRISES, INC.,	SUMMONS
DEFENDANT(S).	

TO: DEFENDANT(S): EXECUTIVE FINANCIAL ENTERPRISES, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Todd M. Friedman, whose address is Law Offices of Todd M. Friedman, 369 S. Doheny Dr., #415, Beverly Hills, CA 90211. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: APR 27 2011

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) JOHN ROGERS	DEFENDANTS EXECUTIVE FINANCIAL ENTERPRISES, INC.																														
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Todd M. Friedman, Esq, Law Offices of Todd M. Friedman, P.C. 369 S. Doheny Dr., #415, Beverly Hills, CA 90211	Attorneys (If Known)																														
II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table border="0"> <tr> <td data-bbox="681 616 843 658">Citizen of This State</td> <td data-bbox="1005 616 1086 658">PTF</td> <td data-bbox="1086 616 1134 658">DEF</td> <td data-bbox="1377 616 1442 658">PTF</td> <td data-bbox="1442 616 1474 658">DEF</td> </tr> <tr> <td data-bbox="681 658 843 701">Citizen of Another State</td> <td data-bbox="1005 658 1086 701">□ 1</td> <td data-bbox="1086 658 1134 701">□ 2</td> <td data-bbox="1377 658 1442 701">□ 4</td> <td data-bbox="1442 658 1474 701">□ 5</td> </tr> <tr> <td data-bbox="681 701 843 743">Citizen or Subject of a Foreign Country</td> <td data-bbox="1005 701 1086 743">□ 2</td> <td data-bbox="1086 701 1134 743">□ 3</td> <td data-bbox="1377 701 1442 743">□ 5</td> <td data-bbox="1442 701 1474 743">□ 6</td> </tr> <tr> <td data-bbox="681 743 843 785">Incorporated or Principal Place of Business in this State</td> <td data-bbox="1005 743 1086 785">□ 3</td> <td data-bbox="1086 743 1134 785">□ 4</td> <td data-bbox="1377 743 1442 785">□ 6</td> <td data-bbox="1442 743 1474 785">□ 7</td> </tr> <tr> <td data-bbox="681 785 843 828">Incorporated and Principal Place of Business in Another State</td> <td data-bbox="1005 785 1086 828">□ 4</td> <td data-bbox="1086 785 1134 828">□ 5</td> <td data-bbox="1377 785 1442 828">□ 7</td> <td data-bbox="1442 785 1474 828">□ 8</td> </tr> <tr> <td data-bbox="681 828 843 870">Foreign Nation</td> <td data-bbox="1005 828 1086 870">□ 5</td> <td data-bbox="1086 828 1134 870">□ 6</td> <td data-bbox="1377 828 1442 870">□ 8</td> <td data-bbox="1442 828 1474 870">□ 9</td> </tr> </table>	Citizen of This State	PTF	DEF	PTF	DEF	Citizen of Another State	□ 1	□ 2	□ 4	□ 5	Citizen or Subject of a Foreign Country	□ 2	□ 3	□ 5	□ 6	Incorporated or Principal Place of Business in this State	□ 3	□ 4	□ 6	□ 7	Incorporated and Principal Place of Business in Another State	□ 4	□ 5	□ 7	□ 8	Foreign Nation	□ 5	□ 6	□ 8	□ 9
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Incorporated or Principal Place of Business in this State	□ 3	□ 4	□ 6	□ 7																											
Incorporated and Principal Place of Business in Another State	□ 4	□ 5	□ 7	□ 8																											
Foreign Nation	□ 5	□ 6	□ 8	□ 9																											
IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): _____	<input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																														
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)	CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No MONEY DEMANDED IN COMPLAINT: \$ _____																														
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 15 USC 1692 Violation of the Fair Debt Collection Practices Act																															
VII. NATURE OF SUIT (Place an X in one box only.)																															
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of Stat. Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	TORTS PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/ Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act																										

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
 If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: [*]	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: [*]	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
 Note: In land condemnation cases, use the location of the tract of land involved.

County in this District: [*]	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ Date April 23, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 and is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))